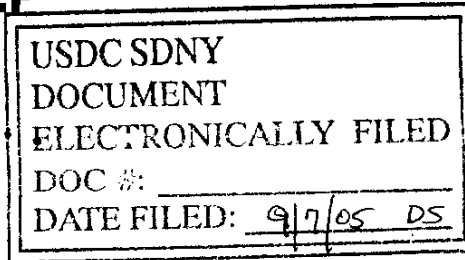


GERSTEN SAVAGE LLP

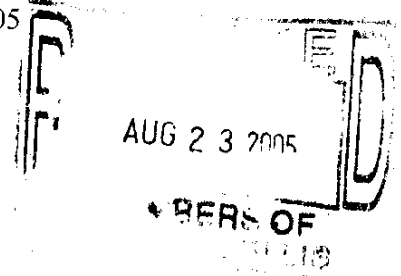


600 LEXINGTON AVENUE
NEW YORK NY 10022-6018
T: 212-752-9700
F: 212-980-5192
INFO@GSKNY.COM
WWW.GSKNY.COM

VIA HAND DELIVERY

The Honorable Ronald L. Ellis
United States Magistrate Judge
United States Courthouse
500 Pearl Street, Room 1970
New York, NY 10007

August 23, 2005



Re: Merit Capital Group, LLC v. Trio Industries Management, LLC, et al.
Case No. 04 CIV 7690 (RCC)

Dear Judge Ellis:

My firm represents plaintiff Merit Capital Group, LLC and third-party defendants Harvey Bloch and Alfred Salazar ("plaintiff"). I am writing to respectfully request, pursuant to Rule 1(E) of Your Honor's Individual Practices, that the parties' time to complete depositions be extended in light of defendants' and third-party plaintiffs' ("defendants") failure to provide all necessary and required documents to plaintiff, and defendants' counsel's stated unavailability for depositions this month.

Your Honor previously directed that defendants supplement their longstanding deficient document production by July 15, 2005 (having obtained several extensions before that), pursuant to document demands initially served by plaintiff on January 4, 2005. Your Honor also directed that depositions be completed by August 31, 2005. I recently returned from my honeymoon, which commenced during the third week of July, and although I contacted one of defendants' attorneys upon my return, defendants still have not fully complied with the Court's directive and have not yet produced important financial records. (Defendants' counsel stated today that she intends to provide plaintiff with one of the requested documents today and the remainder of them to be provided in the future.)


Since this case involves the ownership and management of the corporate defendant's business, defendants' dissipation of the company's assets and their impairment of plaintiff's membership interests in the company, defendants' financial records (including tax returns) are desperately needed prior to conducting the parties' depositions. Absent this discovery – none of which defendants object to and all of which they acknowledge must be produced to plaintiff – plaintiff will be severely prejudiced and unable to prosecute its case effectively. Notwithstanding the prior request for an extension of discovery (which this Court granted), necessitated by defendants' failure to comply with their discovery obligations, plaintiff

GERSTEN SAVAGE LLP

The Honorable Ronald L. Ellis
August 23, 2005
Page Two

is compelled to request another extension in view of defendants' refusal to turn over all of their financial records sufficiently in advance of depositions.

I have conferred with defendants' counsel, and she consents to an extension of the deposition deadline, especially in view of the fact that defendants' counsel is consumed with an appeal in the United States Court of Appeals for the Fifth Circuit and says she will not be available this month for depositions.

For the foregoing reasons, and in view of Judge Casey's preference that document discovery take temporal precedence over depositions" (Individual Practices, Rule 3(B)), plaintiff respectfully requests that defendants be directed to produce the outstanding discovery forthwith and that the parties' time to complete depositions be extended to October 14, 2005. 

Your Honor's attention and consideration of this matter is greatly appreciated.

Respectfully submitted,



Marc R. Rosen

cc: Susan C. Stanley, Esq. (via hand delivery)

*Extension to October 14, 2005
to complete depositions*

SO ORDERED



9-07-05

CLERK OF COURT JUDGE RONALD L. ELLIS